

**SUBJECT: INTERNAL POLICIES RE: PRIVATE TELECOMMUNICATIONS
USE OF PUBLIC ASSETS FOR SITING TELECOM FACILITIES**

Summary

An internal policy was developed by staff and approved by the City's Executive Management Team in 1998 to guide negotiations with private telecommunications providers who want to place facilities on or in City property. We anticipate similar requests to use City property in the future. Existing agreements with providers established prior to the Federal Telecommunications Act the council's work on telecommunications policies are serving as a helpful guide to future negotiations. While there are many issues to consider when developing a consistent approach to leasing City space to telecommunications providers, this policy focuses on standardizing a municipal process.

Background

In 1997, the City Council adopted a set of telecommunications policies which were developed by the Council Committee on Telecommunications. As staff developed this internal City Property use policy, they paid close attention to telecom policies #2, #7, and #8.

#2. The City shall receive fair compensation...for the use of...City property by telecommunications providers.

#7. The City shall have access to reliable, flexible telecommunications services.

#8. Similarly situated telecommunications providers shall be treated in a similar manner.

We feel the following internal policy is consistent with Council directives embedded in their telecommunications policies.

Criteria for determining fair rent

The City will consider the following criteria when establishing the amount a telecom company will pay to the City for use of a City asset:

a. Market Forces

The City will seek to maximize the revenue from private commercial use of City assets. Where competition exists (i.e. when other sites are available), the City may accept lower rent amounts. Where a City's asset is uniquely qualified as a site for telecommunications technology, the City will negotiate for a higher return for the public's investment in that asset.

b. Precedents with Other Providers

The City will seek consistency in developing agreements with providers. For example, if two companies place similar devices on the same city asset, the rent amount should be the same unless there is a compelling reason for the amounts to be different.

c. Precedents in Other Cities

The City will seek agreements with providers which allow the City at least as favorable benefits as other cities have with the same provider in similar situations.

d. Potential to Reduce Burden on the View-shed

The City may accept lower-than-market rent in order to provide incentives for providers to use existing City assets rather than build new structures.

e. Potential for Cost-Effective Public-Private Partnerships

The City may accept lower-than-market rent in order to provide incentives for providers to share the expense of building a structure which could hold both the private and public telecommunications equipment. For example, if the City needs a tower to position public safety telecommunications equipment, the city may forgo rent on city land in order to provide a private provider incentive to share the cost of and co-locate on the tower.

f. Full Cost Recovery

The Telecommunications Program Manager will coordinate with City Facilities and Finance staff to ensure that revenue from telecommunications companies' use of public assets at least covers the full cost of negotiating and managing the agreement, and any increased cost associated with the presence of telecom equipment on City property (e.g., utility expense, maintenance, etc.) that is not covered by permit fees. The City may decide to accept a lower-than-cost amount if there is a compelling

reason in the public interest. In this case, the Franchise Manager will bring the proposal to Executive Managers for review.

Note that these criteria do not apply to wireline providers' use of the public Rights of Way, governed instead by City Code (e.g. Ordinance 20083 (1997).)

When a request for telecommunications use of City Property is made, the City's Telecommunications Program Manager will coordinate staff contact as appropriate with Planning, Public Works Facilities, Finance, the affected facility, and City Attorney. The Telecommunications Manager will coordinate incoming requests to ensure that providers are registered as required by Ordinance 20083, to coordinate management and siting issues with appropriate facilities staff, and to ensure consistency in City agreements with providers, and the like. The City Attorney will review all proposed agreements before they are forwarded to the City Manager for approval.

The City Attorney has confirmed that this policy is consistent with City Code and State and Federal Telecommunications law. Staff will work with the City Attorney to develop other standard components for agreements with providers, such as a contingency plan if City sells the asset, access requirements, etc.

The City places this information on the Telecommunications Page of the City's Web site, outreaches to providers, and shares City siting policies with intergovernmental partners.